PROPOSED AMENDED RULE 111
POST HEARING MARK UP DRAFT
~~CRANIOFACIAL ANOMALY RECONSTRUCTIVE SURGERY COVERAGE~~

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~~SECTION 1. AUTHORITY~~

~~This Rule is issued pursuant to Ark. Code Ann. § 23-79-1503 which requires the Arkansas Insurance Department ("AID") to issue rules for the implementation and administration of coverage for craniofacial anomaly reconstructive surgery under Ark. Code Ann. § 23-79-1501 et seq.~~

~~SECTION 2. DEFINITIONS~~

~~Unless otherwise separately defined in this rule and consistent with state law, the terms or phrases as used in this rule shall follow the definitions of such terms or phrases as defined in Ark. Code Ann. § 23-79-1501.~~

~~SECTION 3. COVERAGE REQUIREMENT REVIEW~~

~~(a) Pursuant to Ark. Code Ann. § 23-79-1502(a)(1), a health benefit plan that is offered, issued, provided, or renewed in this state shall include coverage and benefits for reconstructive surgery and related medical care for a person of any age who is diagnosed as having a craniofacial anomaly if the reconstructive surgery and treatment are medically necessary to improve a functional impairment that results from the craniofacial anomaly as determined by a nationally approved cleft-craniofacial team, approved by the American Cleft Palate-Craniofacial Association ("ACPA approved team") in Chapel Hill, North Carolina.~~

~~(1) The services included in the coverage and benefits for reconstructive surgery and related medical care may be performed in this state by providers in an ACPA approved team that has diagnosed a craniofacial anomaly, or may be performed by licensed and qualified specialist in this state not in an ACPA approved team as long as such specialist has received: (i) a diagnosis or evaluation that the patient has a craniofacial anomaly by an ACPA~~

approved team; (ii) a written authorization or approval of the proposed services and treatment plan by an ACPA approved team, including approval of any additional services or care, subsequent to the treatment plan; (iii) the licensed and qualified specialist agrees it must maintain clinical records and provide appropriate documentation whenever requested by an ACPA approved team; (iv) the licensed and qualified specialist must be willing to allow the member(s) of the ACPA approved team to closely oversee all treatment(s); and (v) the licensed and qualified medical specialist must also agree to the ACPA team providing ongoing review for all authorized services including accepting any limitations or withdrawal of such approvals depending on the outcome and medical needs and care of the patient.

(2) Due to the limited number of ACPA approved teams in this state needed to perform diagnoses and review surgery treatment plans for patients with craniofacial anomalies at this time, an ACPA approved team outside this state may provide the evaluation, authorizations and review as required in Section Three (3) (a)(1)(i)-(v) of this rule. Nothing in this rule is intended to require a health benefit plan to provide coverage and benefits for reconstructive surgery services themselves to be performed outside this state.

(b) Pursuant to Ark. Code Ann. § 23-79-1502(b), a health benefit plan shall also provide coverage for dental and vision care as approved by an ACPA approved team following the requirements of this section.

SECTION 4. EFFECTIVE DATE

The effective date of this Rule is November 23, 2015.

ALLEN W. KERR
INSURANCE COMMISSIONER

DATE

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SECTION 1. AUTHORITY

This Rule is issued pursuant to Ark. Code Ann. § 23-79-1503 which requires the Arkansas Insurance Department ("AID") to issue rules for the implementation and administration of coverage for craniofacial anomaly reconstructive surgery and recommended treatment under Ark. Code Ann. § 23-79-1501 et seq. This Rule is also issued to implement Act 955 of 2021, "An Act to Modify the Law Concerning Craniofacial Coverage and to Establish Wendelyn's Craniofacial Law" (hereafter, Act 955, formerly codified from Act 1226 of 2013 and Act 373 of 2015).

SECTION 2. DEFINITIONS

For purposes of this Rule, the following definitions will apply:

(1) "acquired craniofacial anomaly" means a craniofacial condition caused or brought on only by trauma or tumor.

(2) "craniofacial anomaly" means the abnormal development of the skull and face.

(3) "healthcare service" means a healthcare procedure, treatment, or service provided by a medical provider.

(4) "medical provider" means a person who performs healthcare services for patients with a craniofacial anomaly.

(5) "nonurgent" healthcare service means any craniofacial healthcare service which is not urgent.

(6) "reconstructive surgery" means the use of surgery to alter the form and function of cranial facial tissues due to a congenital or acquired musculoskeletal disorder, including surgery to alter the form and function of the skull and face.

(7) "surgical team member" means a ~~surgical~~ surgical member of an American Cleft Palate-Craniofacial Association ("ACPA") approved team who specializes in craniofacial anomaly reconstructive surgery or a surgical member of an approved team with requisite and equivalent craniofacial surgical experience in the field of service requested to be reviewed.

(8) "urgent healthcare service" means a craniofacial healthcare service for a non-life-threatening condition that, in the opinion of a provider with knowledge of a craniofacial patient's medical condition, requires prompt medical care in order to prevent:

(A) A serious threat to life, limb, or eyesight;

(B) Worsening impairment of a bodily function that threatens the body's ability to regain maximum function;

(C) Worsening dysfunction or damage of any bodily organ or part that threatens the body's ability to recover from the dysfunction or damage; or

(D) Severe pain that cannot be managed without prompt medical care.

SECTION 3. COVERAGE REQUIREMENTS FOR HEALTH INSURERS UNDER THIS RULE

(a) Health insurers shall be subject to all Sections of this Rule.

(b) Pursuant to Ark. Code Ann. § 23-79-1502(b), a health benefit plan shall provide coverage for dental and vision care as approved by an ACPA approved surgical team member following the requirements of this section.

(c) A health benefit plan shall include coverage for the following:

(1) On an annual basis, or during the course of a year:

(A) Sclera contact lenses, including coatings;

(B) Office visits;

(C) An ocular impression of each eye;

(D) Autologous serum eye drops;

(E) eye weights, either surgically and/or external eye weights in one or both eyes as directed by an eye specialist, as needed;

(2) (A) Every two (2) years, two (2) hearing aids and two (2) hearing aid molds for each ear.

(B) As used in this section, "hearing aids" includes behind the ear, in the ear, wearable bone conductions, surgically implanted bone conduction services, and cochlear implants; and

(d) A health benefit plan, or any third party administrator for the plan, shall not require mail order, walkin clinics, or in-network protocols, for compliance with any audiology or others services, as mandated by this Rule.

(e) Any additional tests or procedures that are medically necessary for a craniofacial patient and any diagnostic service incidental to the provision of these benefits in this Section.

(f) For healthcare services to be performed by a nationally approved cleft-craniofacial team, or recommended healthcare services to be performed by a medical provider that is not on a nationally approved cleft-craniofacial team~~non-craniofacial provider~~, a request for written authorization or approval shall be reviewed by the administrator (health insurer) of the health benefit plan:

(A) Within two (2) working days from the request by a nationally approved cleft-craniofacial surgical team member, or by a medical provider that is not on a nationally approved cleft-craniofacial team if the request is accompanied by an Attestation in the form established by this Rule that is signed by a surgical team member of an APCA Approved Team, for a nonurgent case; or

(B) Within twenty-four (24) hours from the request by a nationally approved cleft-craniofacial surgical team member, or by a medical provider that is not on a nationally approved cleft-craniofacial team if the request is accompanied by an Attestation in the form established by this Rule that is signed by a surgical team member of an APCA Approved Team for an urgent case. The health insurer must be familiar with or willing to become familiar with the particular craniofacial diagnoses in question and recommended procedure prior to making a determination. The standards in this section shall follow the Prior Authorization Transparency Initiative.

SECTION 4. MEDICAL PROVIDER OFFICE REQUIREMENTS FOR ACPA APPROVED TEAMS ~~FOR CRANIOFACIAL PROVIDERS~~

(a) Medical Provider Office Requirements for ACPA Approved Teams.

(b) For healthcare services that are recommended by a surgical member of a nationally approved cleft-craniofacial team, a request for written authorization shall be submitted to the health benefit plan:

(A) ~~Within~~ At least two (2) working days ~~from~~ before the proposed service date~~appointment date or services rendered date~~, by a nationally approved cleft-craniofacial surgical team, for a nonurgent case; or

(B) ~~Within~~ At least twenty-four (24) hours ~~from~~ before the proposed services date~~appointment date or services rendered date~~, by a nationally approved cleft-craniofacial surgical team member, for an urgent case.

(c) Every needed service or recommended procedure shall be authorized by an Attestation in the form established by this Rule that is signed by a surgical team member of an APCA Approved team, ~~initiated from~~ and thereafter be monitored under the coordinated treatment plan until the completion of such services by the nationally approved cleft-craniofacial surgical team member.

(d) The standards in this section shall follow the Prior Authorization Transparency Initiative.

SECTION 5. MEDICAL PROVIDER OFFICE REQUIREMENTS FOR NON ACPA APPROVED TEAM MEMBERS ~~CRANIOFACIAL PROVIDERS~~

(a) Medical Provider Office Requirements for Non APCA Approved Team members. ~~Noncraniofacial Providers.~~ A medical provider that is not on a nationally approved cleft craniofacial team shall communicate and respond within two (2) working days from the request ~~appointment or services rendered date~~ to any medical information requests made by the nationally approved cleft-craniofacial surgical team member who ~~initiated~~ made the recommendation described in this Rule~~section~~.

(b) For healthcare services that are recommended by a surgical team member of a nationally approved cleft-craniofacial team that are to be performed by a medical provider that is not on a nationally approved cleft-craniofacial team, a request for written authorization or approval shall be submitted to the health benefit plan:

(i) At least ~~Within~~ two (2) working days before ~~from~~ the proposed service date ~~the appointment date or date of the requested services~~ as recommended by a nationally approved cleft-craniofacial surgical team member, for a nonurgent case; or

(ii) Within twenty-four (24) hours before ~~from~~ the proposed service date ~~appointment date or date of requested services~~ as recommended by a nationally approved cleft-craniofacial surgical team member, for an urgent case.

(c) The recommended needed services shall be the subject of an attestation delivered by a surgical team member of an APCA Approved Team ~~initiated from a referral~~ to the medical provider and thereafter be monitored under the coordinated treatment plan until the completion of such services by the nationally approved cleft-craniofacial surgical team member.

(d) ~~The noncraniofacial provider~~ A medical provider that is not on a nationally approved cleft-craniofacial team shall comply with Section 7 for referrals for services.

(e) The standards in this section shall follow the Prior Authorization Transparency Initiative.

(f) For claims to be admitted or paid under this Section, for purposes of this Section, a medical provider that is not on a nationally approved cleft-craniofacial team shall submit to the health benefit plan a signed attestation form (Exhibit "A") by a surgical team member of an ACPA Approved Team. The health benefit plan shall have two (2) working days from the submission date to review such claim(s) for nonurgent cases and twenty-four (24) hours for urgent cases.

SECTION 6. CODING FEE FOR EVALUATION

Every health benefit plan covering residents or enrollees in this State shall cover charges for evaluations performed by a nationally approved cleft-craniofacial team in its review of proposed services under Section Five (5) of this Rule. The coding designation number and fee amount for such charges shall be the same for all health benefit plans pursuant to an explanatory bulletin by the Commissioner which will be issued annually or as needed.

SECTION 7. ATTESTATION OR AUTHORIZATION FORM

For services to be reviewed under Section Five (5) of this Rule, the medical provider that is not on a nationally approved cleft-craniofacial team ~~non-craniofacial provider~~ shall use the Attestation or Authorization form which shall be designated as Wendelyn's Craniofacial Law Authorization Form as Exhibit "A" to this Rule.

~~SECTION 8. EFFECTIVE DATE~~

~~The effective date of this Rule is January 1, 2022.~~

ALAN MCCLAIN
INSURANCE COMMISSIONER

DATE